

APPENDIX

Chapter 414 of the 1972 Laws of New York

AN ACT to amend the education law, in relation to health, welfare and safety grants for pupils in nonpublic schools; to establish an elementary and secondary education opportunity program of tuition reimbursement for parents of low income; to amend the tax law, in relation to a modification of federal adjusted gross income for parents of nonpublic school children; and to amend the education law, in relation to impacted aid for school districts and the purchase of existing structures to be used for school buildings

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The education law is hereby amended by adding thereto a new article, to be article twelve, to read as follows:

ARTICLE 12**HEALTH AND SAFETY GRANTS FOR NONPUBLIC
SCHOOL CHILDREN**

Section 549. Legislative findings.

550. Definitions.

551. Apportionment.

552. Applications, reports, regulations.

553. Installments.

EXPLANATION—Matter in *italics* is new; matter in brackets [] is old law to be omitted.

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§ 549. Legislative findings. The legislature hereby finds and declares that:

1. The state has a primary responsibility to ensure the health, welfare and safety of children attending both public and nonpublic schools.

2. The state discharges this responsibility to public school children through substantial amounts of per pupil financial assistance to local school districts. The fiscal crisis in nonpublic education, however, has caused a diminution of proper maintenance and repair programs, threatening the health, welfare and safety of nonpublic school children, particularly in urban areas. Such areas are generally identified by a high incidence of families receiving assistance to dependent children and deteriorating physical structures, including nonpublic school buildings. Financial resources necessary to properly maintain and repair such buildings are beyond the capabilities of low-income people whose children attend nonpublic schools.

3. In recognition of the financial plight of urban areas in attracting qualified teachers, the federal government has enacted Title IV of the Higher Education Act of nineteen hundred sixty-five, which provides incentives to teachers to instruct in those schools which serve a high concentration of students from low-income families.

4. It is incumbent upon the state to ensure that the physical environment in such Title IV areas is both healthy and safe. Incidental to such goals, but none the less signif-

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cant, is the contribution that a healthy and safe school environment makes to the stability of urban neighborhoods.

5. To insure a healthy and safe school environment for children attending nonpublic schools, the state has the right to make grants for maintenance and repair expenditures which are clearly secular, neutral and non-ideological in nature.

§ 550. Definitions. In this article:

1. "Commissioner" shall mean the state commissioner of education.

2. "Qualifying school" shall mean a nonprofit elementary or secondary school in the state of New York, other than a public school, which (a) is providing instruction in accordance with article seventeen and section thirty-two hundred four of this chapter, (b) has not been found to be in violation of Title VI of the Civil Rights Act of nineteen hundred sixty-four, 78 Stat. 252, 42 U.S.C. § 2000(d), (c) which is entitled to a tax exemption under section five hundred one(a) and five hundred one(c)(3) of the Federal Internal Revenue Code of nineteen hundred fifty-four, as amended, and (d) has been designated during the base year as serving a high concentration of pupils from low-income families for purposes of Title IV of the Federal Higher Education Act of nineteen hundred sixty-five (20 U.S.C.A. § 425).

3. "Base year" shall mean the school year immediately preceding the current year.

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4. "Current year" shall mean the school year during which an apportionment is to be paid pursuant to this article.

5. "Health, welfare and safety grants" shall mean the apportionment made pursuant to this article which shall be used for the maintenance and repair of nonpublic school facilities and equipment to ensure the health, welfare and safety of enrolled pupils.

6. "Maintenance and repair" shall mean the provision of heat, light, water, ventilation and sanitary facilities; cleaning, janitorial and custodial services; snow removal; necessary upkeep and renovation of buildings, grounds and equipment; fire and accident protection; and such other items as the commissioner may deem necessary to ensure the health, welfare and safety of enrolled pupils.

7. "Average daily attendance" shall mean the total number of attendance days of enrolled pupils in grades one through twelve during the base year, divided by the number of days the school was in session during such year.

§ 551. Apportionment. 1. In order to meet proper health, welfare and safety standards in qualifying schools for the benefit of the pupils enrolled therein, there shall be apportioned health, welfare and safety grants by the commissioner to each qualifying school for the school years beginning on and after July first, nineteen hundred seventy-one, an amount equal to the product of thirty dollars multiplied by the average daily attendance of pupils receiv-

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ing instruction in such school, to be applied for costs of maintenance and repair. Such apportionment shall be increased by ten dollars multiplied by the average daily attendance of pupils receiving instruction in a school building constructed prior to nineteen hundred forty-seven. In no event shall the per pupil annual allowance computed under this section exceed fifty per centum of the average per pupil cost of equivalent maintenance and repair in the public schools of the state on a state-wide basis, as determined by the commissioner, and in no event shall the apportionment to a qualifying school exceed the amount of expenditures for maintenance and repair of such school as reported pursuant to section five hundred fifty-two of this article.

2. The apportionment pursuant to this section shall be reduced by one one hundred eightieth for each day less than one hundred eighty days that such school was actually in total session in the base year, except that the commissioner may disregard such reduction up to five days if he finds that the school was not in session for one hundred eighty days because of extraordinary adverse weather conditions, impairment of heating facilities, insufficiency of water supply, shortage of fuel or the destruction of a school building, and if the commissioner further finds that such school cannot make up such days of instruction during the school year. No such reduction shall be made, however, for any day on which such school was in session for the purpose of administering the regents examinations or the regents scholarship examinations, or any day, not to exceed three days, when such school was not in session because of a conference of teachers called by the principal of the school.

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§ 552. *Applications, reports, regulations. Each qualifying school which seeks an apportionment pursuant to this article shall submit to the commissioner an application therefor, at such times, in such form and containing such information as the commissioner may by regulation prescribe in order to carry out the purposes of this article. Such applications shall include an audited statement of the expenditures of maintenance and repair of such qualifying school for the base year.*

§ 553. *Installments. The amount to be apportioned to a qualifying school in any current year shall be paid in two equal installments, the first to be made on or before January fifteenth and the other not later than June fifteenth of such year, except that for the school year commencing July first, nineteen hundred seventy-one such apportionment shall be made in one payment on or before June fifteenth, nineteen hundred seventy-two. The commissioner may provide for later payments for the purpose of adjusting and correcting apportionments. The amount to be apportioned to a qualifying school shall be payable on order and warrant of the comptroller on vouchers certified or approved by the commissioner in the manner provided by law.*

§ 2. Such law is hereby amended by inserting therein a new article, to be article twelve-A, to read as follows:

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ARTICLE 12-A

**ELEMENTARY AND SECONDARY EDUCATION
OPPORTUNITY PROGRAM**

Section 559. Legislative findings.

560. Short title.

561. Definitions.

562. Tuition reimbursement payments to parents.

563. Commissioner; powers.

§ 559. Legislative findings. The legislature hereby finds and declares that:

1. The vitality of our pluralistic society is, in part, dependent upon the capacity of individual parents to select a school, other than public, for the education of their children. A healthy competitive and diverse alternative to public education is not only desirable but indeed vital to a state and nation that have continually reaffirmed the value of individual differences.

2. The Supreme Court of the United States has recognized and reaffirmed this right of selection. This right, however, is diminished or even denied to children of lower-income families, whose parents, of all groups, have the least options in determining where their children are to be educated.

3. Quality education is made possible for all children in our state only because the burden of providing it has

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been carried by taxpayers who support both public and nonpublic education. Any precipitous decline in the number of nonpublic school pupils would cause a massive increase in public school enrollment and costs. Such an increase would seriously jeopardize quality education for all children and aggravate an already serious fiscal crisis in public education.

4. In recognition of the initiative of parents who support both public and nonpublic education, it is a legitimate purpose for the state to partially relieve the financial burden of parents who provide a nonpublic education for their children which satisfies the compulsory education laws of the state. Such assistance is clearly secular, neutral and nonideological in nature and is consistent with the historical and continuing role of the state in providing a quality education for all children and in nurturing a pluralistic society.

5. An Elementary and Secondary Education Opportunity Program is hereby established, which consists of tuition reimbursement for parents of low income, in order to provide partial assistance in meeting the financial burden of supporting the compulsory education of their children who are full-time students in New York nonpublic elementary and secondary schools.

§ 560. Short title. This article shall be known as the "Elementary and Secondary Education Opportunity Program".

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§ 561. *Definitions.* The following terms, whenever used in this article, shall have the following meanings:

a. "Parent" means a legal resident of the state of New York with a New York taxable income of under five thousand dollars who is a parent, stepparent, adoptive parent and the spouse of an adoptive parent of a pupil enrolled in a nonpublic school, or a resident with such taxable income standing in loco parentis to such pupil.

b. "Taxable income" means the amount of combined net taxable income, if any, of both parents computed in accordance with the provisions of section six hundred eleven of the tax law computed without the benefit of the modification of federal adjusted gross income for nonpublic school tuition pursuant to paragraph (14) of subsection (c) of section six hundred twelve of the tax law, for the year for which a tuition reimbursement payment is sought. If the parents of a pupil are living apart, the taxable income of the parent who claims reimbursement under this article shall be based upon the taxable income of that parent with whom the pupil is living, or who exercises custody if the pupil is a minor, or would exercise custody if the applicant were a minor and any appropriate payments for the support of the pupil from the other parent.

c. "Nonpublic school" means any nonprofit elementary or secondary school in the State of New York, other than a public school, which (i) is providing instruction in accordance with article seventeen and section thirty-two hundred four of this chapter, (ii) has not been found to be in violation of Title VI Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. § 2000 (d), and (iii) which is entitled to a tax

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exemption under section five hundred one(a) and five hundred one(c)(3) of the Federal Internal Revenue Code of nineteen hundred fifty-four, as amended.

d. "Tuition" means the amount actually paid by a parent for the enrollment of a pupil at a nonpublic school for the calendar year for which a tuition reimbursement payment is sought.

e. "Pupil" means a resident of the state of New York who has been enrolled full-time in a nonpublic school and whose parents' combined taxable income is less than five thousand dollars.

f. "Commissioner" means the commissioner of education of the State of New York.

g. "Regular school year" means all of the months of the calendar year exclusive of July and August.

§ 562. Tuition reimbursement payments to parents. 1. Upon the filing by a parent of the verified statement as required by subdivision two, the commissioner shall make a tuition reimbursement payment to such parent for tuition expenses made in the preceding calendar year. Only one such payment shall be made on behalf of any pupil in a calendar year. Such payment shall be the lesser of either (a) fifty percent of the tuition paid by the parent during the preceding calendar year for the elementary or secondary education of each pupil, or (b) five dollars per month for the period of enrollment in a nonpublic school during the regular school year for each pupil in grades one through eight, and ten dollars per month for the period of enrollment in a nonpublic school during the preceding regular

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school year for each pupil in grades nine through twelve. Whenever payments as herein computed total less than ten dollars, no such payment shall be made.

2. In order to be eligible for tuition reimbursement hereunder, the parent of a pupil shall, by May first of the year following the calendar year for which reimbursement is sought, file with the commissioner a verified statement, in such form as he shall provide, stating that the pupil was enrolled during such year in a nonpublic school or schools and, in addition, the following information: (a) the name, address and taxable income of the parent; (b) the name, address and birth date of the pupil; (c) the grade in which the pupil was enrolled during each month in a nonpublic school in such year; (d) the name and address of the nonpublic school or schools attended by such pupil; (e) a receipted tuition bill. For reimbursement for the calendar year nineteen hundred seventy-one, such verified statement shall be filed not later than July first, nineteen hundred seventy-two.

3. No parent shall be eligible to receive a tuition reimbursement payment who has claimed a modification of federal adjusted gross income for nonpublic school tuition pursuant to paragraph fourteen of subsection (c) of section six hundred twelve of the tax law based upon the same tuition expenditures.

4. The state tax commission shall, when requested by the commissioner, compare any verified statement filed with the commissioner pursuant to this article with the state income tax returns if any, filed by the parent making such

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verified statement and shall report any discrepancies to the commissioner. All verified statements filed with the commissioner and all reports made to him by the state tax commission, pursuant to this article shall be deemed confidential and, except in accordance with proper judicial order or as otherwise prescribed by law, it shall be unlawful for the commissioner or any officer or employee of the department to divulge or make known in any manner the amount of income or any other particulars set forth in any verified statement filed with him hereunder or report made to him pursuant to this subdivision; but nothing contained herein shall be considered to prohibit the commissioner's publication of statistics so classified as to prevent the identification of particular affidavits or reports.

§ 563. Commissioner; powers. The commissioner shall have responsibility for the administration of the program created by this article and may promulgate such regulations as are necessary to carry out the provisions of this article. The amount required to be paid under the provisions of this article shall be payable on order and warrant of the comptroller on vouchers certified or approved by the commissioner in the manner provided by law.

§ 3. Legislative findings. The legislature hereby finds and declares that:

- 1. Statutes already provide for the deduction from gross income for tax purposes of amounts contributed to religious, charitable and educational institutions.*

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2. Nonpublic educational institutions are themselves entitled to a tax exempt status by virtue of legislation which has been sustained by the courts.

3. Such educational institutions not only provide education for the children attending them, but by their existence, relieve the taxpayers of the state of the burden of providing public school education for those children.

4. Tax laws also authorize deductions for education related to employment.

5. The legislature hereby finds and determines that similar modifications of federal adjusted gross income should also be provided to parents for tuition paid to nonpublic elementary and secondary schools on behalf of their dependents for whom exemptions are claimed under the tax law.

§ 4. Subsection (c) of section six hundred twelve of the tax law is hereby amended by adding thereto a new paragraph, to be paragraph fourteen, to read as follows:

(14) The amount that may be subtracted from federal adjusted gross income pursuant to subsection (j) of this section.

§ 5. Section six hundred twelve of such law is hereby amended by adding thereto a new subdivision, to be subdivision (j), to read as follows:

(j) Modification for nonpublic school tuition. (1) General. An individual shall be entitled to subtract from his federal adjusted gross income an amount shown in the

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table set forth in this paragraph for his New York adjusted gross income for the taxable year, computed without the benefit of this modification, multiplied by the number of his dependents, not exceeding three, attending a nonpublic school on a full-time basis for at least four months during the regular school year for the education of such dependent in grades one through twelve, provided such individual is allowed an exemption under section six hundred sixteen for such dependent. Provided, further, that the modification under this paragraph may be taken only if such individual has paid at least fifty dollars for each such dependent in tuition to such nonpublic school for such education of such dependent. No taxpayer shall be entitled to the modification provided for in this paragraph if he claims a tuition reimbursement payment pursuant to article twelve-A of the education law.

<i>If New York adjusted gross income is:</i>	<i>The amount allowable for each dependent is:</i>
<i>Less than \$9,000</i>	<i>\$1,000</i>
<i>9,000—10,999</i>	<i>850</i>
<i>11,000—12,999</i>	<i>700</i>
<i>13,000—14,999</i>	<i>550</i>
<i>15,000—16,999</i>	<i>400</i>
<i>17,000—18,999</i>	<i>250</i>
<i>19,000—20,999</i>	<i>150</i>
<i>21,000—22,999</i>	<i>125</i>
<i>23,000—24,999</i>	<i>100</i>
<i>25,000 and over</i>	<i>—0—</i>

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(2) *Husband and wife.* In determining the applicable New York adjusted gross income of a husband and wife for purposes of the table set forth in paragraph one of this subsection, the New York adjusted gross income of a husband and wife shall be the aggregate of their New York adjusted gross incomes for the taxable year, determined without the benefit of the modification provided for in this subsection, and the number of dependents with respect to which this modification may be claimed shall be no more than three in the aggregate.

(3) *Definitions.* (A) "Tuition", as used in this subsection, shall mean the amount actually paid during the taxable year by the taxpayer for the enrollment of a dependent during the regular school year at a nonpublic school.

(B) "Nonpublic school", as used in this subsection, shall mean any non-profit elementary or secondary school in the state of New York, other than a public school, which (i) is providing instruction in accordance with article seventeen and section thirty-two hundred four of the education law, (ii) has not been found to be in violation of Title VI of the Civil Rights Act of nineteen hundred sixty-four, 78 Stat. 252, 42 U.S.C. 2000(d) and (iii) which is entitled to a tax exemption under sections five hundred one (a) and five hundred one (c) (3) of the Federal Internal Revenue Code of nineteen hundred fifty-four, as amended. The commissioner of education shall furnish to the state tax commission by February first of each year, a certified list of nonpublic schools which comply with clause (i) of this subparagraph for the preceding calendar year and shall provide such other assistance with respect to whether non-

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public schools come within clause (i) as the state tax commission may require.

(C) "Regular school year", as used in this subsection, shall mean the months of the taxable year exclusive of July and August.

(4) Additional information. Any claim for a modification under this subsection shall be accompanied by such information as the tax commission may require.

§ 6. Legislative findings. The legislature hereby finds and declares that:

Since September of nineteen hundred sixty-six when non-public enrollment reached a zenith of 891,000 pupils, the enrollment of such schools has shown a constant and unmistakable decline. Fewer than 760,000 students were enrolled in September of nineteen hundred seventy-one. The severity of the fiscal crisis confronting nonpublic education threatens to change what has been a gradual transition of pupils into a sudden and precipitous collapse of nonpublic education. Such a collapse would seriously jeopardize the quality of education for all students and worsen an already serious fiscal crisis in the public schools.

Additional financial assistance to public school districts cannot prevent the disruption of the educational process which a massive infusion of new students would precipitate. It can, however, partially alleviate the enormous, and perhaps intolerable, fiscal burden that must be borne by the property taxpayers of school districts. Urban school districts, which contain a majority of the nonpublic school enrollment, are particularly affected, since their ability to raise property tax revenues is curtailed by constitutional

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tax limits. Therefore, it is declared to be the policy of this State to provide additional financial assistance for those impacted public school districts in accordance with the provision contained herein.

§ 7. Section thirty-six hundred two of the education law is hereby amended by adding thereto a new subdivision, to be subdivision fifteen, to read as follows:

15. Impacted aid. In addition to the foregoing apportionments there shall be apportioned to any school district which experiences an increase in student enrollment during the school year commencing July first, nineteen hundred seventy-two or any year thereafter because of the closing in whole or in part of a nonpublic school, or campus school, an amount computed as herein provided.

a. Definitions. As used herein:

1. enrolled student shall mean any student currently enrolled in a public school of any school district or borough who attended a nonpublic school, or campus school, during either the base year or current year and whose enrollment in such public school was caused by the closing in whole or in part of a nonpublic school.

2. borough shall mean any borough of the city school district of the city of New York.

3. aid ratio shall mean the higher of the actual aid ratio established for such district or borough, or thirty-six per centum.

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b. Computation. The amount to be apportioned shall be the product of:

1. the number of enrolled students in any school district or borough multiplied by one hundred dollars; and

2. the aid ratio of such school district or borough.

c. The city school district of the city of New York shall be entitled to compute such apportionment using the enrolled students and aid ratio for each such borough.

d. Any apportionment as herein computed shall be subject to regulations promulgated by the commissioner and shall not be deducted in determining approved operating expenses of the district for the purpose of computation of any apportionment pursuant to subdivision five of this section.

e. The apportionment as herein computed shall be paid in accordance with the provisions of section thirty-six hundred nine of such law during the current school year and the school year next succeeding such year.

§ 8. Subdivisions one, two and three of section four hundred eight of the education law, subdivision one having been last amended by chapter two hundred fifty-seven of the laws of nineteen hundred sixty-five, subdivision two having been amended by chapter nine hundred thirty-three of the laws of nineteen hundred seventy-one, and subdivision three having been amended by chapter seven hundred eighty-one of the laws of nineteen hundred fifty-one, are hereby amended to read, respectively, as follows:

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1. No schoolhouse shall hereafter be erected, *purchased*, repaired, enlarged or remodeled in any school district except in a city school district in a city having seventy thousand inhabitants or more, at an expense which shall exceed one hundred thousand dollars, until the plans and specifications thereof shall have been submitted to the commissioner of education and his approval endorsed thereon. Such plans and specifications shall show in detail the ventilation, heating and lighting of such buildings.

In the case of a school district in a city having seventy thousand inhabitants or more, all the provisions previously set forth in this subdivision shall apply, except that the commissioner may waive the requirement for submission of plans and specifications and substitute therefor the requirement for submission of an outline of such plans and specifications for his review. Such outline shall be in a form which he may prescribe from time to time.

In either case, the commissioner may, in his discretion, review plans and specifications for projects estimated at an expense of less than one hundred thousand dollars.

In the case of a school district in a city having a million inhabitants or more, all of the provisions previously set forth in this subdivision shall apply, except that such school district shall only be required to submit an outline of the plans and specifications to the commissioner of education for his information where a schoolhouse is to be erected in conjunction with the development of a project to be developed under the provisions of article two or five of the private housing finance law and where both the school and the project are to have rights or interests in the same land, regardless of the similarity or equality thereof, including

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fee interests, easements, space rights or other rights or interests.

2. The commissioner of education shall not approve the plans for the erection *or purchase* of any school building or addition thereto or remodeling thereof unless the same shall provide for heating, ventilation, lighting, sanitation, storm drainage and health, fire and accident protection adequate to maintain healthful, safe and comfortable conditions therein and unless the county superintendent of highways or commissioner of public works has been advised of the location of all temporary and permanent entrances and exits upon all public highways and the storm drainage plan which is to be used.

3. The commissioner of education shall approve the plans and specifications, heretofore or hereafter submitted pursuant to this section, for the erection *or purchase* of any school building or addition thereto or remodeling thereof on the site or sites selected therefor pursuant to this chapter, if such plans conform to the requirements and provisions of this chapter and the regulations of the commissioner adopted pursuant to this chapter in all other respects; provided, however, that the commissioner of education shall not approve the plans for the erection *or purchase* of any school building or addition thereto unless the site has been selected with reasonable consideration of the following factors; its place in a comprehensive, long-term school building program; area required for outdoor educational activities; educational adaptability, environment, accessibility; soil conditions; initial and ultimate cost.

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§ 9. Section four hundred eight of such law is hereby amended by adding thereto a new subdivision, to be subdivision six, to read as follows:

6. *The commissioner may promulgate regulations relating to the purchase of existing school buildings. Such regulations shall provide for an appraisal of such buildings as school buildings and the land on which they are situated as school sites by the state board of equalization and assessment, such estimates of the cost of renovation and construction as may be necessary and limitations on the cost of acquisition and renovation, in taking into consideration the age and condition of such existing buildings, in relation to the estimated cost of constructing a new building containing comparable facilities. Such regulations may also require the prior approval of the commissioner of any renovations proposed to be made to such existing school buildings.*

§ 10. The opening paragraph and paragraph a of subdivision six of section thirty-six hundred two of such law, the opening paragraph having been separately amended by chapters eight hundred forty-seven and nine hundred thirty-one of the laws of nineteen hundred seventy-one and paragraph a having been amended by chapter two hundred thirty-four of the laws of nineteen hundred seventy, are hereby amended to read, respectively, as follows:

Apportionment for capital outlays and debt service for school building purposes. Any apportionment to a school district pursuant to this subdivision shall be based upon base year approved expenditures for capital outlays from

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its general fund, capital fund or reserved funds and current year approved expenditures for debt service and lease or other annual payments to the New York city educational construction fund created by article ten of this chapter or the city of Yonkers educational construction fund created by article ten-B of this chapter which have been pledged to secure the payment of bonds, notes or other obligations issued by the fund to finance the construction, acquisition, reconstruction, rehabilitation or improvement of the school portion of combined occupancy structures, or for lease or other annual payments to the New York state urban development corporation created by chapter one hundred seventy-four of the laws of nineteen hundred and sixty-eight, pursuant to agreement between such school district and such corporation relating to the construction, acquisition, reconstruction, rehabilitation or improvement of any school building. In any such case approved expenditures shall be only for new construction, reconstruction, *purchase of existing structures*, for site purchase and improvement, for new garages, for original equipment, furnishings, machinery, or apparatus, and for professional fees and other costs incidental to such construction or reconstruction, *or purchase of existing structures*.

a. For capital outlays for such purposes first incurred on or after July first, nineteen hundred sixty-one and debt service for such purposes first incurred on or after July first, nineteen hundred sixty-two, the actual approved expenditures less the amount of civil defense aid received pursuant to the provisions of section thirty-five of the laws of nineteen hundred fifty-one as amended shall be allowed

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for purposes of apportionment under this subdivision but not in excess of the following schedule of cost allowances:

(1) For new construction *and the purchase of existing structures* the cost allowances shall be based upon the rated capacity of the building or addition and shall be not more than one thousand dollars per pupil for a building or an addition housing grades kindergarten through six, nor more than fourteen hundred dollars per pupil for a building or an addition housing grades seven through nine, nor more than fifteen hundred dollars per pupil for a building or an addition housing grades seven through twelve. Rated capacity of a building or an addition shall be determined by the commissioner based on space standards and other requirements for building construction specified by the commissioner. Such allowances shall be corrected by an index number established by the commissioner reflecting changes in the costs of labor and materials from December first, nineteen hundred fifty.

(2) Where a school district has expenditures for site purchase, grading or improvement of the site, original furnishings, equipment, machinery or apparatus, or professional fees, or other incidental costs, the cost allowances for new construction *and the purchase of existing structures* may be increased by the actual expenditures for such purposes but by not more than twenty per centum for school buildings or additions housing grades kindergarten through six and by not more than twenty-five per centum for school buildings or additions housing grades seven through twelve.

(3) Cost allowances for reconstructing or modernizing structures shall not exceed fifty per centum of the cost allowances for new construction.

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§ 11. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 12. This act shall take effect immediately, except that sections seven, eight and nine shall take effect July first, nineteen hundred seventy-two, and the provisions of paragraph (14) of subsection (c) of section six hundred twelve of the tax law, as added by section four of this act, shall apply to all taxable years beginning after December thirty-first, nineteen hundred seventy-one.